

The complaint

Ms B complains about QIC Europe Ltd (“QIC”) avoiding her home insurance policy. She wants QIC to reinstate her policy and to consider her claim.

What happened

Ms B was in the process of purchasing her home. She obtained a Homebuyer’s survey of the property.

In that survey, under the heading ‘Structural Movement’ the surveyor reported

“The property has suffered previous movement, as evidenced by minor differential settlement cracking between the main dwelling and lower ground floor annexe addition, but I saw no evidence to suggest this is ongoing.

The various garden retaining walls have suffered previous movement with minor cracking visible but I saw no evidence to suggest this is ongoing.

Retaining structures are prone to eventual deflection and increased maintenance costs.”

The surveyor categorised these details as category 1, being the least serious category of repair.

Ms B proceeded with the purchase.

In February 2018, Ms B purchased home insurance with QIC, via a comparison website.

The site asked her to confirm a number of declarations about the property, including the material the property was built from, whether the property had been subject to subsidence, structural support or underpinning in the past 10 years, and whether it was undergoing any major building works. One of the declarations read “It does NOT show signs of cracking in external walls”.

Ms B agreed with the declaration, and her policy was issued.

Ms B renewed her policy in February 2019, 2020 and 2021. At each renewal she agreed with this declaration.

In September 2021, as some work was being carried out at Ms B’s home, her contractor removed render from an external retaining wall and discovered a substantial crack. He stopped work and Ms B contacted QIC to alert them that she may need to make a claim.

A surveyor from QIC attended her home and spoke with Ms B. During this conversation Ms B mentioned having seen cracks in the kitchen prior to it being renovated, and that these had been replastered.

QIC communicated further with Ms B and requested a copy of her Homebuyer's survey, which she provided.

QIC then contacted Ms B and advised her that it intended to avoid her policy. QIC considered that failure to declare the cracks mentioned in the Homebuyer's survey was a qualifying misrepresentation and that QIC was entitled to avoid the policy back to renewal in 2021. QIC considered the misrepresentation to be careless and so refunded Ms B's premium back to 2021. QIC declined to consider any claims made within the policy period.

Ms B was unhappy with this and complained. She felt that QIC had misconstrued her attempts to provide full information as her having been aware of existing issues with the property. She explained that she did not consider the cracks mentioned in the Homebuyer's survey to be relevant as they were described as minimal and not ongoing.

QIC sent Ms B its final response in October 2021. It maintained its decision to avoid the policy.

It stated that the insurer is a low-risk home insurer and does not provide cover to properties with any form of cracking in the external walls.

Ms B complained to us.

Our investigator considered this matter and set out her view to the parties. This was that QIC had demonstrated that if Ms B had disagreed with the declaration about cracking then cover would not have been offered. She therefore thought that QIC was entitled to cancel the policy back to the 2021 renewal.

Ms B did not accept that view and asked for an ombudsman decision. She has made reference to finding written communication difficult and thinking that the question was asking about significant cracks rather than ones which could have been painted over.

I issued a provisional decision in relation to this matter in March 2022. That provisional decision has been shared with the parties and they have been invited to comment.

Ms B has not made any further comments.

QIC has submitted further comments arguing that it was unreasonable of Ms B not to mention the cracks which were noted in her Homebuyer's survey. It says that the question was factual and unambiguous and did not require Ms B to make any assessment of the severity of the cracks and whether they were relevant or not. QIC argues that it would not have offered cover if any cracks had been disclosed and so it considers that the complaint ought to be rejected and the avoidance decision allowed to remain.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I understand QIC's arguments, and that it has provided underwriting criteria showing that it would not have offered cover if Ms B had declared signs of cracking in external walls. It has explained that it is a low risk insurer and would decline any cover where cracks were declared, without undertaking any further assessment of the severity of cracks.

In its submission, QIC has repeated that when QIC's surveyor attended Ms B's home she mentioned some cracks which had appeared in her kitchen, around 12 months after she

moved in. QIC has indicated that those cracks too ought to have been declared at the time, or at subsequent renewal.

Ms B has previously explained, to both QIC and to us, that some cracks appeared in the plaster around a large extractor fan which had vibrated and become loose. The cracks were in the plaster only and were repaired by filler and redecoration. It is clear that the cracks described in the kitchen were superficial and in the plaster only, and were of no relevance to the structure of the wall once the extractor fan was replaced.

QIC has indicated that Ms B ought to have declared these aesthetic cracks because they were on the plaster of an external wall.

I do not agree with this, and aesthetic cracks are not something which are routinely declared to insurers or would be of interest to insurers. Requiring consumers to declare aesthetic cracks to plaster, which can be repaired by decoration, would be excessive and unrealistic. Consumers understand that their insurer wishes to know issues which affect the risk of a property, and aesthetic issues do not affect this insurance risk.

The cracks mentioned in the HomeBuyer's survey, are described by surveyors as "hairline" and "minor differential settlement cracking". Ms B's subsequent surveyor has described them as "negligible" and "aesthetic" only, and it is clear that the surveyor conducting the Homebuyer's survey did not consider that they were recent or ongoing.

Overall, the professional surveyors' assessments of the settlement cracking were that these cracks were negligible and aesthetic only and not relevant to an assessment of the risk of the structure of the property. A great many properties will show signs of differential settlement and will be completely structurally sound.

Based on the HomeBuyer's survey, which Ms B had seen at the time of her declarations, I do not think it was unreasonable of Ms B to disregard the superficial cracking, which was graded as the lowest category of cracking and not of concern. As far as Ms B was concerned, the hairline cracks were only to the render which was to be replaced by new render anyway. She could not give an assessment of the wall underneath, but the surveyor who carried out the Homebuyer's survey was unconcerned and saw no evidence of ongoing movement.

In my view, most reasonable consumers would not consider that they should declare minor settlement cracks. In all the circumstances, I do not consider that Ms B's omission was a qualifying misrepresentation, and I do not think that it was fair of QIC to avoid her policy on the basis of it.

I therefore remain of the view expressed in my provisional decision and I adopt that decision, as supplemented by the above comments, as my final decision.

Putting things right

As previously indicated, I think that to put matters right, QIC must reinstate Ms B's policy to ensure her cover is continuous. QIC should then consider Ms B's claim in line with the policy without reference to the HomeBuyer's survey or any alleged misrepresentation about cracking.

As Ms B's own survey has been important in reaching this decision, QIC should reimburse Ms B for the cost of this report, on production of evidence of the costs being paid.

QIC must give Ms B a letter confirming that she does not need to declare that she has had a

policy cancelled or avoided.

If Ms B has incurred costs in obtaining alternative cover, QIC should reimburse her for that cover. QIC is able to charge Ms B for her reasonable premiums for her continuous cover.

QIC should also pay to Ms B compensation for her distress and inconvenience. I previously indicated that I considered that £250 would be appropriate compensation. Ms B has not commented on this and so I am satisfied that it is reasonable and in line with other awards we would make.

My final decision

For the reasons given above, I uphold Ms B's complaint and direct QIC Europe Ltd to:

- Reinstatement Ms B's policy, backdated to the date of avoidance, in order to provide continuous cover;
- Consider Ms B's claim, without reference to any alleged misrepresentation of cracking;
- Reimburse Ms B for the cost of her structural survey;
- Reimburse Ms B for any costs she has incurred in obtaining alternative cover; and
- Pay to Ms B £250 compensation for her distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 13 June 2022.

Laura Garvin-Smith
Ombudsman